



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY PHYSICAL DISABILITY AGENCY  
BUILDING 7 WRAMC  
WASHINGTON DC 20307-5001

AHRC-DZB

FEB 28 2005


MEMORANDUM FOR PHYSICAL EVALUTION BOARD PRESIDENTS

SUBJECT: Policy Guidance Memorandum #14: Rating Guidance for Human Immunodeficiency Virus (HIV) Infection

1. Supersession: This memorandum supersedes USAPDA memorandum, 8 April 2002, subject above. There is no change in policy; a new number is assigned (formerly #15) and the signature block is updated.
2. Purpose: To supplement the rating guidance for HIV contained in DoD Instruction 1332.39 with additional guidance from Department of Defense (DoD).
3. Policy: In accordance with guidance from DoD, upon removal from the Temporary Disability Retired List (TDRL), Soldiers with the unfitting diagnosis of HIV are, as a general rule, to be rated at least 30 percent if the soldier has had recurrent (more than once) constitutional symptoms, even if they have responded to appropriate treatment. Examples of constitutional symptoms include weakness, fatigue, nausea, shortness of breath, loss of appetite, etc.
4. Point of contact: Dr. Charles Peck, Senior Medical Officer, USAPDA, DSN 662-3039 or commercial (202) 782-3016.

FOR THE COMMANDER:

Encl  
Memo, OSD, 12 Dec 00  
with VA guidelines

  
DANIEL L. GARVEY  
Colonel, AD  
Deputy Commander

CF:  
HQUSAPDA Senior Staff  
DASG-HSP (COL Arroyo)  
APDAB (COL Sutton)

## COPY OF GUIDANCE

### VETERANS ADMINISTRATION SCHEDULE FOR RATING DISABILITIES: GUIDELINES FOR RATING HIV INFECTION<sup>1</sup>

#### **HOW should HIV infection be rated?**

There are roughly 5 categories of disease that may require rating:

- the asymptomatic
- those with early acute symptoms
- those with later symptoms (but not AIDS)
- those with AIDS
  - with opportunistic infections
  - with cancer
- any of the above categories on treatment, which presents its own set of problems.

#### **Rating initial HIV infection**

The initial HIV infection with non-specific flu-like symptoms and/or lymphadenopathy, will probably warrant a 0-10% evaluation, UNLESS treatment has been initiated early. In that case, evaluation may be higher, based on the particular complications of drug therapy. Only those who have no symptoms from HIV infection OR its treatment should be rated at 0%.

#### **Duration of treatment**

Unlike HCV, treatment for HIV lasts not just for 6 months or 1 year, but continues for years. Therefore, adverse reactions and complications may be long lasting or permanent.

#### **Rating CD4 counts**

While CD4 counts are part of the rating schedule criteria, as always, you should rate the disability. If the CD4 count is above the level for a certain evaluation, but the disabling signs and symptoms would call for a higher evaluation, evaluation should be based on the disabling effects rather than on the laboratory finding.

**Remember that treatment can modify the CD4 count and bring it to normal or near normal levels, while at the same time it results in disabling effects itself.**

#### **Rating later stages, but before AIDS**

In the later stages, but before AIDS develops, any level of evaluation may be warranted, depending on the particular problems that develop. For example, with enlarged lymph nodes and fatigue, 10% might be appropriate, depending on the severity of fatigue. But if there is PID that does not respond to treatment, 30% or more might be called for.

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<sup>1</sup> Issued by the Department of Veterans Affairs May 10, 2000, as part of "Fast Letter" Number 211A.

Rating may be based on 6351 criteria only, or you may choose to rate any defined conditions due to HIV infection or its treatment separately, if this is more advantageous to the veteran. However, you can't use the same findings for more than one evaluation.

For example, if there is a CD4 count of 400, the veteran is on HAART, and there are symptoms of depression but no other significant signs or symptoms of the infection or its treatment, you could assign 10%. However, if the depression rises to the level of a diagnosed major depression or dysthymic disorder, consider evaluating it separately as a secondary condition, with the potential of a higher rating. The HIV infection would still warrant a 10% evaluation under 6351, based on findings not related to symptoms of depression—low CD4 count and treatment.

On HAART, a number of side effects and complications are likely, and it will be the unusual case where less than a 30% level of disability evaluation will be warranted.

Of those on treatment who will be rated below 30%, most will probably be veterans treated soon after HIV has been diagnosed, when they are asymptomatic, and who also develop few or no side effects or complications from treatment.

#### **What if there are recurrent constitutional symptoms?**

If there have been recurrent constitutional symptoms, even if they have responded to appropriate treatment, the minimum rating is 30%. This will commonly be the situation for veterans on treatment, and there will certainly be cases where a 60% or 100% rating will be warranted due to treatment complications.

#### **Rating AIDS**

Once AIDS develops, the range of possible ratings is wide, depending on specific findings.

##### **Opportunistic infections**

Of course, once an opportunistic infection or neoplasm appears, the rating will be 60% or above. Many of the opportunistic infections will warrant a 100% evaluation, at least for a time (TB, lymphoma, etc.) SMC will be a frequent consideration.

##### **Cancer**

The cancer complications of AIDS should be rated separately if advantageous to the veteran, as long as they are not also used to support a 60- or 100-percent evaluation under 6351.

##### **Anemia and wasting syndrome**

Also consider separately evaluating anemia (under the hemic system) or wasting syndrome (as avitaminosis perhaps) if this would be more advantageous to the veteran than using them to support a 60- or 100-percent evaluation under 6351.

**Episodic problems**

Take into account the possibility that a particular examination may have been done at a time between episodes of opportunistic infections when findings are relatively few. You should consider the overall history for the past year or so when rating, since some AIDS complications can be episodic.

**Followup**

HIV infection is becoming a chronic disease that requires long-term management, and rating procedures should reflect this fact. Therefore, reassessment in 2 years or so of those on HAART may be warranted.

**New Information**

Treatment for HIV is changing rapidly, and you will need to keep in touch with new information periodically, through the Internet or medical journals.